

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 CHARLES D. RIEL,

12 Petitioner,

13 v.

14 WARDEN, San Quentin State Prison,

15 Respondent.  
16

No. 2:01-cv-0507 LKK DAD

DEATH PENALTY CASE

ORDER

17 In 2009, the assigned district judge granted in part and denied in part petitioner's motion  
18 for an evidentiary hearing in this action. (ECF No. 212.) Specifically, the assigned district judge  
19 adopted the then-assigned magistrate judge's reasoning in her ruling on the motion for an  
20 evidentiary hearing in all but one respect. (Id.) The district judge held that the magistrate judge  
21 failed to properly consider the standards for application of California's felony-murder rule to a  
22 nonkiller in declining to hold an evidentiary hearing on petitioner's claim of ineffective assistance  
23 of counsel at the guilt phase and, therefore, did not adopt the recommendation in that respect. (Id.  
24 at 3-7.)

25 It does not appear that either party mentions these felony-murder rule standards, or the  
26 district judge's application of them to petitioner's case, in the briefing on the application of 28  
27 U.S.C. § 2254(d) to this action. Accordingly, IT IS HEREBY ORDERED as follows:

28 /////

